

28 OCT 2005

#3



UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Martin Moynihan
C/O ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VIRGINIA 22202

In re Application of	:	DECISION ON
Cohen et al.	:	
Application No.: 10/542,591	:	
PCT No.: PCT/IL2004/000044	:	
Int. Filing Date: 15 January 2004	:	PETITION
Priority Date: 17 January 2003	:	
Attorney's Docket No.: 30070	:	
For: REACTIVE ANIMATION	:	UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR 1.137(b)," filed on 28 September 2005.

BACKGROUND

On 15 January 2004, this international application was filed. A copy of the intentional application was transmitted on 5 August 2004 to the USPTO from the International Bureau.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 18 July 2005, since July 17, 2005 fell on a Sunday. However, when the office attempted to charge Deposit Account 501407 on 22 July 2005, there were insufficient funds to cover the basic filing fee. Accordingly, the international application became abandoned with respect to the United States for failure to pay the required basic national fee.

On 28 September 2005, applicants filed the instant petition under 37 CFR 1.137(b), which was accompanied by the petition fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any

terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by authorizing on 28 September 2005 to recharge the deposit account and having sufficient funds in the deposit account for the basic national fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.


Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Applicants, however, have submitted a composite declaration that is defective because it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3) must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of three sets of declarations, and only one set is complete because it has the complete number of sheets – 3 (three). Each declaration must contain the names of all the inventors on it and all sheets and not as here in which two sets were incomplete because only page 3 has been provided. The signatures of the inventors may be on separate declarations but each declaration must list all the inventors and have all the require sheets, which is three (3). Therefore the composite Declaration is defective.


Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459